

31A-27a-508 Liability of transferee.

- (1) Except as otherwise provided in this section, to the extent that the receiver obtains an order pursuant to Section 31A-27a-501, or avoids a transfer under Section 31A-27a-502, 31A-27a-503, 31A-27a-504, 31A-27a-506, or 31A-27a-507, the receiver may recover the property transferred, or the value of the property, from:
 - (a) the initial transferee of the transfer or the entity for whose benefit the transfer is made; or
 - (b) subject to Subsection (2), an immediate or mediate transferee of the initial transferee.
- (2) The receiver may not recover under Subsection (1)(b) from:
 - (a) a transferee that takes for value, including satisfaction or securing of a present or antecedent debt:
 - (i) in good faith; and
 - (ii) without knowledge of the voidability of the transfer avoided; or
 - (b) an immediate or mediate good faith transferee of the transferee.
- (3) A transfer avoided in accordance with this chapter is preserved for the benefit of the receivership estate, but only with respect to property of the insurer.
- (4) In addition to the remedies specifically provided in Sections 31A-27a-501, 31A-27a-502, 31A-27a-503, 31A-27a-504, 31A-27a-506, and 31A-27a-507 and Subsection (1), if the receiver is successful in establishing a claim to the property or any part of the property, the receiver may recover judgment for the following:
 - (a) rental for the use of tangible property from the later of:
 - (i) the day on which the receivership order is entered; or
 - (ii) the date of the transfer; and
 - (b) in the case of funds or intangible property:
 - (i) the greater of:
 - (A) the actual interest;
 - (B) income earned by the property; or
 - (C) interest at the statutory rate for judgments; and
 - (ii) from the later of:
 - (A) the day on which the receivership order is entered; or
 - (B) the date of the transfer.
- (5) In an action pursuant to this section, the receivership court may allow the receiver to seek recovery of the property involved or its value.
- (6) In an action pursuant to Sections 31A-27a-501, 31A-27a-502, 31A-27a-503, 31A-27a-504, 31A-27a-506, 31A-27a-507, and 31A-27a-510:
 - (a) the receiver has the burden of proving the avoidability of a transfer; and
 - (b) the person against whom recovery or avoidance is sought has the burden of proving the nature and extent of any affirmative defense.

Enacted by Chapter 309, 2007 General Session